

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal No. 2011-28
)	
ASHU BHANDARI,)	
)	
Defendant.)	
)	

ATTORNEYS:

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For the plaintiff United States of America,

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Washington, D.C.

For defendant Ashu Bhandari.

ORDER

GÓMEZ, C.J.

Before the Court is the Report and Recommendation of the Magistrate Judge. The Magistrate Judge recommends that the defendant Ashu Bhandari's ("Bhandari") plea of guilty to Counts One through Six of the Bill of Information be accepted.

On September 1, 2011, Bhandari and the United States of America (the "Government") entered into a plea agreement

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pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) (the "First Plea Agreement").

On September 21, 2011, the Court held a change of plea hearing. At that hearing, the Court rejected the First Plea Agreement. Bhandari then declined to plead guilty.

On February 15, 2012, Bhandari and the Government entered into a revised plea agreement (the "Revised Plea Agreement"). The Revised Plea Agreement is virtually identical to the First Plea Agreement, aside from an expansion of range of fines the Court could impose and an alteration to the fine payment schedule.

A change of plea hearing was held before the Magistrate Judge on March 12, 2012. After cautioning and examining the defendant under oath concerning each of the subjects mentioned in Federal Rule of Criminal Procedure 11 ("rule 11"), the Magistrate Judge found that the guilty plea was knowingly and voluntarily made as to each count, and that the offenses were supported by an independent basis in fact containing each of the essential elements of each such offense. The Court agrees with the Magistrate Judge's Report and Recommendation. Accordingly, Bhandari's plea of guilty will be accepted.

The Court hastens to note that acceptance of Bhandari's guilty plea does not equate to or imply acceptance of the

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Revised Plea Agreement. Indeed, it is well established that "acceptance of [a] plea d[oes] not equate to an acceptance of the [plea] agreement." *United States v. Blakeslee*, 423 Fed. App'x 136, 142 (3d Cir. 2011) (citing *United States v. Hyde*, 520 U.S. 670, 674 (1997)). A district court is free to "accept the guilty plea and later accept or reject the agreement." *Id.* at 141. Thus, to be clear, the Revised Plea Agreement is not accepted.

The premises considered, it is hereby

ORDERED that the Report and Recommendation of the Magistrate Judge is **ADOPTED**; and it is further

ORDERED that the defendant Ashu Bhandari's plea of guilty to Counts One, Two, Three, Four, Five, and Six of the Bill of Information is **ACCEPTED**;

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED that the defendant Ashu Bhandari be and he is hereby adjudged guilty of the offenses in Counts One, Two, Three, Four, Five, and Six of the Bill of Information.

S\

Curtis V. Gómez
Chief Judge